

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Marvella H. Mure Holland,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1700
Parcel No. 100/04418-000-000

On December 2, 2010, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Marvella H. Mure Holland requested her appeal be considered without a hearing. She was self-represented. The Board of Review designated Assistant County Attorney David W. Hibbard as its legal representative. It submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Marvella H. Mure Holland, owner of property located at 4124 Forest Avenue, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing her property. According to the property record card, the subject property consists of a one-story dwelling with a two-story addition having 1790 square feet of main level living area and 442 square feet of upper level living area, for a total living area of 2232 square feet. It has a 1372 square-foot, unfinished basement, and a 20-foot by 20-foot, detached garage. The property is also improved by a 308 square-foot, enclosed porch and a 60 square-foot deck. The improvements were built in 1920. The dwelling has a 4+05 quality grade classification and is in normal condition. The improvements are situated on a 0.436 acre site.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$212,700, representing \$39,700 in land value and \$173,000 in improvement value.

The Holland protested to the Board of Review on the ground that there was an error in the assessment under Iowa Code section 441.37(1)(d) claiming \$150,000 was its actual value and fair assessment. In her explanation she alleged that the assessed value is too high based on a 2006 appraisal of \$160,000, basically stating a claim of over-assessment under section 441.37(1)(b). The Board of Review granted the protest, in part, stating, "The assessed value of this property was changed because the market data did not support the assessment." The assessment was reduced to \$172,100, representing \$39,700 in land value and \$132,400 in dwelling value.

Holland filed her appeal with this Board and urged the same ground. The certified record included only the page containing the opinion of value from the 2006 appraisal. Because it is dated for this assessment period and is incomplete, we give it no weight.

Holland submitted photographs to the Board of Review showing extensive interior and exterior deferred maintenance and needed repairs. These included the need to replace floor coverings, wood trim on windows, doors and baseboards, repair and paint walls, complete bathrooms, repair and paint exterior siding, and repair concrete.

The record also included a Board of Review appraiser analysis of five sales of comparable properties in the district. The sale prices ranged from \$165,000 to \$255,000, or \$97.39 to \$121.31 per square foot. Adjusted sale prices were \$189,250 to \$212,542, or \$85.19 to \$124.02 per square foot. The appraiser recommended a 15% discount for super adequacy because the subject property was 700 square feet larger on the main level than other houses in the area.

Cris Swaim of Swaim Appraisal Service, Inc., West Des Moines, completed an appraisal of the property on behalf of the Board of Review. Swaim developed the sales approach to valuation. He completed an interior inspection of the property on November 11, 2010. Swaim describes the subject

as a one-and-one-half story in fair to good condition on the corner of two busy streets, which off-sets its larger size.

Swaim identified five comparable properties similar to the subject property in style, size, and location. He adjusted for exterior siding, gross living area, porches, garages and condition. Unadjusted sale prices ranged from \$151,500 to \$185,000, or \$65.01 to \$93.43 per square foot with a median of \$83.79 per square foot. Adjusted sale prices ranged from \$140,300 to \$177,000. Swaim estimates a value of \$160,000 by the sales approach as of January 1, 2009, based on the condition of the property.

Reviewing all the evidence, we find the preponderance of the evidence supports Holland's contention her property is assessed for more than authorized by law. We considered the Swaim appraisal to be the most credible evidence of the fair market value and a fair assessment of the subject property on the January 1, 2009, assessment date.

Conclusion of Law

The Appeal Board applied the following law.

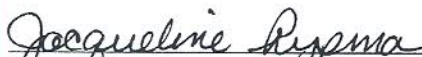
The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

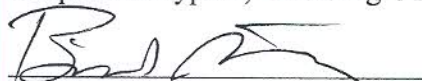
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a). In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). We find a preponderance of the evidence proves Holland's property is assessed for more than authorized by law and the Swaim appraisal is the most persuasive evidence of the fair market value of the property.


THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is modified to \$160,000, representing \$39,700 in land value and \$120,300 in improvement value.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 18 day of January 2011.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-18</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Registered Mail
	